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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,696	04/25/2000	Xiangxin Bi	N19.12-0035	8550

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EXAMINER

GORDON, BRIAN R

ART UNIT PAPER NUMBER

1743

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/557,696

Applicant(s)

BI ET AL.

Examiner

Brian R. Gordon

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 64-68.Claim(s) objected to: 8,9,11,45-52,55 and 62.Claim(s) rejected: 1-7,10,12-14,38-44,53,54,57-61 and 63.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: In reference to the 112 rejection of claim 1, applicant states that the "language along a flow path different" is clear. Applicant states the phrase does not mean anything about transport devices. It actually means nothing more than the second collector and first collector are not in series (see page 12, applicant remarks). The phrase has not been defined as such within the claims or specification. Furthermore the specification on pages 10 and 11 discloses the collectors as being arranged in sequential or parallel paths. As such, since applicant is stating the phrase means not in series, does that mean the collectors are in parallel or any other arrangement? The language remains unclear. Furthermore the assertion of the collectors as not being in series is contradicitive of the arguments (see page 15) directed to claim 1 which specifically state. "With one reactant inlet and two independent collectors used in series (i.e, sequentially in time), different flow paths are used to direct the different collectors for sequential collection." In one instance applicant states the claim is not directed to the arrangement of the collectors and in another instance applicant states the same claim is directed to collectors in diffent flow paths. If the arrangement of the collectors are in parallel then the claim language should state a first collector in a first flow path and a second collector in a second flow path parallel to said first flow path. As the claims are presently drafted there is no description of the first collector in relationship to a flow path. Is one to assume that the collectors are in two different flow paths or are the collectors in the same flow path but each of collectors operate indepently of each other. On page 13, applicant states "claim 38 clearly implies that the reactor remains sealed during the process of collecting the two products in the two collectors." In contrast to the assertion of applicant, the examiner asserts there is no such clear implication as stated by applicant. The claim only addresses the condition in which the reactions are conducted. There is no language directed to the conditions in which the product is collected. Therefore, the claim language does not exclude peforming the reactions in a sealed or closed environment and then collecting the respective product by opening the reactor after the completion of the reactions. Applicant further asserts that the claim is directed to two different reaction sequences separated in time. This issue was previously discussed in the Final Office Action as directed to batch operations occuring sequentially in time in the process of using the device of Marsh to produce diffent products. As to claim 58, applicant states "it seems clear that there are two sources of fluid reactants since if they were in a single souce they would be mixed and not diffent." Contrary to applicant's assertion, the examiner asserts that the presence of two diffent souces is not clear. The claim nor specification defines what applicant considers as different sources. The claim does not mention anything relevant to sources. However, a source may be considered to be a single container with separate distinct chambers therein but still be considered a single source. A source may also be considered a single container that contains two immiscible fluids (gases or liquids) therein. With respect to claim 58, applicant also asserts Marsh is not directed to a reactant delivery system comprising two diffent liquid reactants. This argument is not commensurate in scope with that of the claim. Claim 58 recites "a reactant delivery system comprising different reactant fluids" Fluids are defined as gases or liquids. The term fluid does not exclude gases. The Marsh patent is directed to both. As to the 103 rejection of Marsh in view of Acosta et al., applicant asserts that the references are not analogous. The examiner asserts that the reference are analogouse for both references are directed to the delivery of fluids to conainers. Applicant also asserts that the pending claims are directed to methods (page 16 of remarks, first paragraph) and admits claim 1 does not require any particular structure (page 15, last paragraph). However, applicant points out structure, independent collectors and different flow paths, disclosed in the specification (page 15, last paragraph) and that the single path of Marsh falls short of rendering the claim obvious (page 16, first paragraph). If applicant admits that the method of the claim does not require any specific structure, then why is applicant pointing out the difference in the device of the Marsh and that disclosed in the specification? The claims are interpreted in light of the the specification, however the unclaimed structure as discussed by applicant is not considered as limitations of the claim.


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